

DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 00-0091P

**Individual Income Tax
Calendar Year 1998**

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ISSUE(S)

I. **Tax Administration** – Civil Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

Taxpayer, in a letter dated February 9, 2000 protested the penalty assessed and requested a hearing. A hearing was scheduled for March 8, 2000 at 9:00 a.m. No one appeared, therefore the determination is based upon information contained in the file.

Taxpayer filed its 1998 IT-40 on April 15, 1999 with a tax balance due of \$6,148. The Department assessed a civil penalty in the amount of \$107.54 that reflects a ten percent (10%) penalty calculated on ninety percent (90%) of total tax. In its protest, taxpayer states that the IRS waived its penalty for the same argument. The 2210 penalty, however, was based upon the lesser of ninety percent (90%) of 1998 or 100% one hundred percent of 1997 tax paid.

I. **Tax Administration** – Civil Penalty

DISCUSSION

Taxpayer requests the department waive the civil penalty assessed because the IRS waived its penalty for the same argument presented here. Taxpayer states it is not self-employed and has taxes withheld

from its checks. The only reason that extra taxes were owed for 1998 was because it converted all of its IRA's to Roth IRA's late in the year.

The 1998 Indiana Resident Individual Tax Booklet clearly states who must make estimated income tax payments. An ES-40 Estimated Tax Payment coupon and an Estimated Income Tax Worksheet are included on the page.

IC 6-3-4-4.1 (c) states:

Every individual who has gross income subject to the tax imposed by this article and from which tax is not withheld under the requirements of section 8 of this chapter shall make a declaration of estimated tax for the taxable years. However, no such declaration shall be required if the estimated tax can reasonably be expected to be less than four hundred dollars (\$400). In the case of an underpayment of the estimated tax as provided in Section 6654 of the Internal Revenue Code, there shall be added to the tax a penalty in an amount prescribed by IC 6-8.1-10-2.1(b).

A review of the taxpayers' IT-40 indicates that no estimated tax payments were made. Taxpayer paid its entire liability, less amounts withheld, at the filing of the IT-40. An estimated payment should have been made by January 15, 1999 to cover at least one hundred percent (100%) of the prior year's tax. The return, line 30 also clearly lists penalty for underpayment of estimated tax for 1998.

Taxpayer has not provided reasonable cause to allow a waiver of the civil penalty.

FINDING

Taxpayer's protest is denied.